

Bill No. VIII of 2020

THE INCEST OFFENCES AND SEXUAL ABUSE OF FEMALES IN
FAMILY (PREVENTION) BILL, 2020

A

BILL

*to define the offences relating to incest and sexual abuse of females in family and
prescribe the special procedure for punishment for the offences relating
to incest and sexual abuse of females in family and matters
connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Incest Offences and Sexual Abuse of females in Family (Prevention) Act, 2020.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'appropriate Government' means in the case of a State, the Government of that State and in all other cases, the Central Government;

10 (b) 'child' means any female below the age of 12 years;

(c) 'family member' means grand-mother, mother, daughter, sister, sister-in-law and daughter-in-law;

(d) 'prescribed' means prescribed by rules made under this Act;

(e) 'sexual abuse' includes sexual remarks, lewd gestures, inappropriate physical contact, touching and patting, molestation and displaying pornographic material to a family member;

(f) words and expressions used herein but not defined and defined in the Indian Penal Code, 1860 or Code of Criminal Procedure, 1973 shall have the same meanings respectively assigned to them in those laws.

45 of 1860.
1 of 1974.

Incest
Offences.

3. Any person who has sexually intercourse with his family member or attempts to have sexual intercourse with such family member shall be guilty of the offence of incest and shall be punished as per the provisions of this Act.

Sexual abuse
of family
member.

4. Any person who sexually abuse any of his family member shall be guilty of the offence of sexual abuse and shall be punished as per the provisions of this Act.

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Explanation—For the purposes of sections 3 and 4, the consent of the family member shall not be available as defence to the accused.

Penalty.

5. Whoever is found guilty of offence under:

(i) section 3, shall be punished with rigorous imprisonment for a term for life and shall also be liable to fine:

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Provided that if the victim is a child, offender shall be punished with death.

(ii) section 4, shall be punished with rigorous imprisonment for a term of five years which may extend upto seven years and shall also be liable to fine.

Burden of
proof.

6. Notwithstanding anything contained in any other law, for the time being in force, in the trial under this Act, the burden of proof as to the innocence shall be on the accused and the victim shall have the right to lead evidence in rebuttal.

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Special Court.

7. The procededings under this Act, shall be tried by Special Courts by a woman magistrate and the Court shall follow such procedure as may be determined by it in consultation with District Judge.

Offences to
be cognizable
and non-
bailable.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under this Act shall be cognizable and non-bailable.

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1 of 1976.

Provisions of
the Code of
Criminal
Procedure to
be applied.

9. Save as provided under this Act, the provisions of the Code of Criminal Procedure, 1973, shall be applicable to the trial under this Act.

1 of 1974.

Act to have
overriding
effect.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force relating to incest and sexual abuse.

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Power to
make rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

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STATEMENT OF OBJECTS AND REASONS

Incest and sexual abuse of family members is deviant behaviour. Every day the news of incestuous relations and sexual abuse of females in the family is heard and read about in the media. This kind of gender-based violence threatens the wellbeing, rights and dignity of women.

The society is in a state of denial that incest and sexual abuse in the family exists. Victims are often reluctant to report incest or sexual abuse by a family member as the offender in most of the cases is a close family member. This problem is made worse by the fact that there is no law adequate to prosecute such criminals. There is a complete absence of any support system outside the family to help the victims. The problem gets worse by the fact that family in our Indian system is considered sacred, and any abuse that happens, is met with complete disbelief. As of today, there is no law on offenses relating to incest and sexual abuse within the family in India.

In many developed countries, incest is considered a crime. The United Kingdom has a law on it since 1908, which provides punishment for fourteen years and many other countries have laws on incest and sexual abuse in the family. In the United States also a separate law is there.

There is a consistent demand for a definite law on incest and sexual abuse in the family for quite some time. It is, therefore, extremely imperative and crucial that a separate and strict law should be enacted to counter this kind of gender violence in India.

Hence this Bill.

DR. SASMIT PATRA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Government to make rules for carrying out the purposes of the Bill and the rules with relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

RAJYA SABHA

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(Dr. Sasmit Patra, M.P.)